

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO. 5:08-CV-00464-H**

NATIONAL GENETICS INSTITUTE and)	
BAXTER INTERNATIONAL, INC.)	
)	
Plaintiffs,)	DEFENDANT TALECRIS
)	BIOTHERAPEUTICS, INC.’S
v.)	MOTION TO STAY CASE
)	PENDING REEXAMINATIONS
TALECRIS BIOTHERAPEUTICS, INC.)	
)	
Defendant.)	

Defendant Talecris Biotherapeutics, Inc. (“Talecris”), through counsel and pursuant to Rule 7(b) of the Federal Rules of Civil Procedure and Local Civil Rule 7.1, EDNC, respectfully requests that this Court stay the above-captioned case pending the reexaminations of U.S. Patent Nos. 5,780,222; 6,063,563; and 6,566,052 (collectively, “the patents-in-suit”). In support of this motion, Talecris states as follows:

1. Talecris filed *ex parte* reexamination requests with the United States Patent and Trademark Office (“PTO”) for all three of the patents-in-suit on November 7, 2008.
2. These requests will almost certainly result in the commencement of reexamination proceedings in the PTO: the PTO has granted 8,467 out of 9,219 requests for *ex parte* reexamination since July 1, 1981, when the *ex parte* reexamination process was initiated, or 92% of such requests. U.S. Patent and Trademark Office, *Ex Parte* Reexamination Filing Data - Sept. 30, 2008, at 1, *available at* http://www.uspto.gov/web/patents/documents/ex_parte.pdf.
3. Of the 6,457 *ex parte* reexaminations resolved by the PTO, 4,833, or 75%, resulted in all of the claims of the reexamined patent being canceled or in changes to the claims. *Id.* at 2.

4. Stays pending reexamination of patents are common, particularly where, as in this case, the litigation remains in its early stages.

WHEREFORE, for the foregoing reasons, and for the reasons stated in the accompanying Memorandum in Support of Defendant Talecris Biotherapeutics, Inc.'s Motion to Stay Case Pending Reexamination, Talecris respectfully requests that a stay be entered pending completion of the reexaminations and related appeals.

Respectfully submitted this the 4th day of December, 2008.

/s/ Michael E. Ray

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an attorney at law licensed to practice in the State of North Carolina, is an attorney for Defendant Talecris Biotherapeutics, Inc. and is a person of such age and discretion as to be competent to serve process.

That on December 4, 2008 he served copies of the attached **DEFENDANT TALECRIS BIOTHERAPEUTICS, INC.'S MOTION TO STAY CASE PENDING REEXAMINATION** and in the manner stated below.

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